

1 THE LAW OFFICES OF RANDOLPH H. GOLDBERG
2 RANDOLPH H. GOLDBERG, ESQ.
3 BAR NO. 5970
4 4000 S. Eastern Avenue, Suite 200
Las Vegas, NV 89119
(702) 735-1500
5 Fax: (702) 735-0505
Attorney for Debtors
6

7 **UNITED STATES BANKRUPTCY COURT**
8 **DISTRICT OF NEVADA**

9 In re:

10 **JAMES WEGER &**
JANNENE KELLEY

11 Debtor(s).

Chapter 13 Proceedings
Case No.: BK-S-09-26229-BAM

12 Date: 1/21/2010
Time: 2:30 p.m.

13

14 **MOTION TO VALUE COLLATERAL, "STRIP OFF" AND MODIFY RIGHTS**
OF COUNTRYWIDE HOME LENDING (SECOND MORTGAGE) PURSUANT
TO 11 U.S.C. §506(a) AND §1322

15 Comes Now the Debtors, **JAMES WEGER & JANNENE KELLEY** (hereinafter the
16 "debtors"), by and through THE LAW OFFICES OF RANDOLPH H. GOLDBERG, and
17 respectfully move this Court pursuant to 11 U.S.C. §506(a), and §1322, and Bankruptcy Rules
18 3012 and 9014.

19

20 **STATEMENT OF FACTS**

- 21
- 22 1. Debtors filed the instant Chapter 13, Case Number **09-26229** on **AUGUST 31, 2009**.
- 23
- 24 2. As of the date of filing, debtors owned real property located at **2080 BOWSTRING LAS VEGAS, NEVADA 89142** (hereinafter the "Subject Property").
- 25
- 26
- 27
- 28

1 3. Debtors have obtained a residential appraisal that places the value of the subject
2 property at **\$55,000.00**.
3

4 4. At the time of filing the instant petition, the Subject Property was subject to
5 the following liens:
6

7 **WELLS FARGO HOME MTG (First Mortgage): \$137,806.00**

8 **COUNTRYWIDE HOME LENDING (Second Mortgage): \$57,952.00**

9 **COUNTRYWIDE HOME LENDING (Third Mortgage): \$56,881.00**

10 5. Therefore, on the date the instant bankruptcy was filed, no equity existed in
11 the Subject Property above the claims of **COUNTRYWIDE HOME LENDING**.
12

13 6. **COUNTRYWIDE HOME LENDING**'s claim was wholly unsecured on the
14 petition date and if the Subject Property was sold at auction **COUNTRYWIDE HOME**
15 **LENDING** would receive nothing.
16

17 7. Accordingly, the debtors request that Your Honor find that **COUNTRYWIDE**
18 **HOME LENDING**'s claim is unsecured and should be reclassified as a general unsecured claim
19 to receive pro rata with other general unsecured creditors through the debtors' chapter 13 plan.
20

21 **LEGAL ARGUMENT**

22 In *In re Zimmer*, 313 F.3d 1220 (9th Cir. 2002), the Court stated that a wholly unsecured
23 lien holder's claim can be modified and reclassified as a general unsecured claim pursuant to 11
24 U.S.C. §506(a), despite the anti-modification language in §1322(b)(2). Specifically, the Court
25 held:
26

27 Section 506(a) divides creditors' claims into "secured...claims" and "unsecured
28 claims." Although the conventional interpretation of "secured" might include any
claim in which the creditor has a security interest in the debtor's property, §506(a)

1 makes clear that the status of a claim depends on the valuation of the property. An
 2 allowed claim of a creditor secured by a lien on property in which the estate has
 3 an interest ... is a secured claim to the extent of the value of such creditor's interest
 4 in the estate's interest in such property ... and is an unsecured claim to the extent
 5 that the value of such creditor's interest ... is less than the amount of such allowed
 6 claim. To put it more simply, a claim such as a mortgage is not a "secured claim"
 7 to the extent that it exceeds the value of the property that secures it. Under the
 8 Bankruptcy Code, "secured claim" is thus a term of art; not every claim that is
 9 secured by a lien on property will be considered a "secured claim." Here, it is plain
 that **COUNTRYWIDE HOME LENDING**'s claim for the repayment of its loan
 is an unsecured claim, because its deed of trust is junior to the first deed of trust,
 and the value of the loan secured by the first deed of trust is greater than the value
 of the house.

10 Accordingly, since **COUNTRYWIDE HOME LENDING**'s **second** mortgage claim is
 11 wholly unsecured (in that there is no extant equity above the first mortgage in the Subject
 12 Property), the claim should be reclassified by this Court as a general unsecured claim and share in
 13 whatever pro rata distribution is being received. **COUNTRYWIDE HOME LENDING** should
 14 also be stripped of its secured rights under Nevada State Law since no maintainable security
 15 interest in the subject property exists.

16 Furthermore, the Debtors are not required to file an adversary proceeding to strip the lien
 17 of its secured status. Debtors may "strip off" **COUNTRYWIDE HOME LENDING**'s
 18 consensual lien by motion. See *In re Williams*, 166 B.R. 615 (Bankr.E.D.Va.1994), *In re Fuller*,
 19 255 B.R. 300 (Bankr.W.D.Mich.2000), *In re Hoskins*, 262 B.R. 693 (Bankr.E.D.Mich.2001), *In re*
 20 *King*, 290 B.R. 641 (Bankr.C.D.Ill. 2003), *In re Millspaugh*, 302 B.R. 90 (Bankr.D.Idaho 2003),
 21 *Dickey v. Ben. Fin. (In re Dickey)* 293 B.R. 360 (Bankr.M.D.Pa.2003), *In re Hill*, 304 B.R. 800
 22 (Bankr.S.D.Ohio 2003); *In re Sadala* 294 B.R. 180 (Bankr.M.D.Fla.2003), *In re Fisher*, 289 B.R.
 23 544 (Bankr.W.D.N.Y.2003), *In re Robert*, 313 B.R. 545 (Bankr.N.D.N.Y.2004), *In re Bennett*, 312
 24 B.R. 843 (Bankr.W.D.Ky.2004).

1
2 **CONCLUSION**
3

4 Debtors respectfully request that the court:
5

- 1 1. Determine that the first mortgage on the subject property exceeds the value;
- 2 2. Determine that the **COUNTRYWIDE HOME LENDING** second mortgage
3 claim is a wholly unsecured claim and strip the lien from the subject property pursuant to 11
4 U.S.C. Section 506(a);
5
- 6 3. Reclassify the secured claim filed by **COUNTRYWIDE HOME LENDING** as a
7 general unsecured claim to be paid pro rata in the general unsecured pool of Debtors' Chapter 13
8 Plan.
9
- 10 4. For such other and further relief which the Court deems just and proper.

11 DATED this 9 of DECEMBER, 2009.

12
13 THE LAW OFFICES OF
14 RANDOLPH H. GOLDBERG
15

16 By: /s/RANDOLPH GOLDBERG/s/
17 RANDOLPH H. GOLDBERG, ESQ.
18 4000 S. Eastern Avenue, Suite 200
19 Las Vegas, Nevada 89119
20 Attorney for Debtors

Exterior-Only Inspection Residential Appraisal Report

The purpose of this summary appraisal report is to provide the client with an accurate, and adequately supported, opinion of the market value of the subject property.											
Property Address 2080 Bowstring Drive				City Las Vegas		State NV Zip Code 89142					
Owner KELLEY, JANNENE				Intended User BANKRUPTCY ATTORNEY/JUDGE/COURT				County Clark			
Legal Description Lot 7, Block 13, Winterwood-Sunrise Unit #7.											
Assessor's Parcel # 161-04-714-034				Tax Year 08/09		R.E. Taxes \$ 1,109.31					
Neighborhood Name Winterwood-Sunrise				Map Reference 47-42-7F/Front Bay		Census Tract 0049.12					
Occupant <input checked="" type="checkbox"/> Owner <input type="checkbox"/> Tenant <input type="checkbox"/> Vacant Special Assessments \$ None				PUD HOA \$ N/A		per year per month					
Property Rights Appraised <input checked="" type="checkbox"/> Fee Simple <input type="checkbox"/> Leasehold <input type="checkbox"/> Other (describe) None											
Intended Use Intended Use: Provide the current market value of the subject property for evaluation in a bankruptcy court filing.											
Client Randolph H. Goldberg, Esq. P.C. Address 4000 S. Eastern Avenue, Suite 200, Las Vegas, NV 89119											
Is the subject property currently offered for sale or has it been offered for sale in the twelve months prior to the effective date of this appraisal? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No											
Report data source(s) used, offerings price(s), and date(s). MLS											
I <input type="checkbox"/> did <input type="checkbox"/> not analyze the contract for sale for the subject purchase transaction. Explain the results of the analysis of the contract for sale or why the analysis was not performed. N/A											
Contract Price \$ N/A Date of Contract N/A Is the property seller the owner of public record? <input type="checkbox"/> Yes <input type="checkbox"/> No Data Source(s) N/A											
Is there any financial assistance (loan charges, sale concessions, gift or downpayment assistance, etc.) to be paid by any party on behalf of the borrower? <input type="checkbox"/> Yes <input type="checkbox"/> No											
If Yes, report the total dollar amount and describe the items to be paid. N/A											
Note: Race and the racial composition of the neighborhood are not appraisal factors.											
Neighborhood Characteristics											
NEIGHBORHOOD	Location	Urban <input checked="" type="checkbox"/> Suburban <input type="checkbox"/> Rural <input type="checkbox"/>	Property Values <input type="checkbox"/> Increasing <input type="checkbox"/> Stable <input checked="" type="checkbox"/> Declining	PRICE <input type="checkbox"/> \$ (000) <input type="checkbox"/> In Balance	AGE <input type="checkbox"/> One-Unit <input type="checkbox"/> 2-4 Unit <input type="checkbox"/> Multi-Family <input type="checkbox"/> Commercial	55 % <input type="checkbox"/> 5 % <input type="checkbox"/> 10 % <input type="checkbox"/> 20 %					
	Built-Up	<input checked="" type="checkbox"/> Over 75% <input type="checkbox"/> 25-75% <input type="checkbox"/> Under 25%	Demand/Supply <input type="checkbox"/> Shortage <input type="checkbox"/> Marketing Time <input type="checkbox"/> Under 3 mths <input type="checkbox"/> 3-6 mths <input type="checkbox"/> Over 6 mths	Over Supply <input type="checkbox"/> Over Balance <input type="checkbox"/> Over 6 mths	24 Low <input type="checkbox"/> New <input type="checkbox"/> 1,800 High <input type="checkbox"/> 69 <input type="checkbox"/> 20	Commercial <input type="checkbox"/> Other <input type="checkbox"/> Pred. 26 * <input type="checkbox"/> 65 *					
Growth	Rapid <input checked="" type="checkbox"/> Stable <input type="checkbox"/> Slow <input type="checkbox"/>	Under 3 mths <input type="checkbox"/> 3-6 mths <input type="checkbox"/> Over 6 mths	21 <input type="checkbox"/> 69 <input type="checkbox"/> 20								
Neighborhood Boundaries	Boundaries are Charleston Boulevard on the north, Sunrise Mountain on the east, Russell Road on the south and Boulder Highway on the west.										
Neighborhood Description	The subject neighborhood is comprised of a compatible mixture of tract style residential subdivisions, manufactured homes, apartments, condominiums, public schools and commercial support services typically along major arterial streets. Recent in-fill construction of SFR developments has been taking place throughout the neighborhood.										
Market Conditions	Market conditions (including support for the above conclusions) Home values and market conditions including supply/demand, current listings and average days on the market appear to have recently stabilized within the subject's neighborhood as well as many neighborhoods in the Las Vegas Valley market. Home lending is substantive and interest rates are generally stabilized.										
Dimensions	51' x 100' (Plat Map)										
Specific Zoning Classification	Area 5,100 sf (C.R.) Shape Rectangle View Residential										
Zoning Compliance	<input checked="" type="checkbox"/> Legal <input type="checkbox"/> Legal Nonconforming (Grandfathered Use) <input type="checkbox"/> No Zoning <input type="checkbox"/> Illegal (describe) N/A										
Is the highest and best use of subject property as improved (or as proposed per plans and specifications) the present use? <input type="checkbox"/> Yes <input type="checkbox"/> No If No, describe. The subject property is legally permissible, physically possible, financially feasible and maximally productive "As-Is" with improvements.											
Utilities Public Other (describe) Public <input type="checkbox"/> Off-site Improvements-Type <input type="checkbox"/> Public <input type="checkbox"/> Private											
Electricity <input checked="" type="checkbox"/> 200 CL Water <input checked="" type="checkbox"/> Street Asphalt <input checked="" type="checkbox"/> Public <input type="checkbox"/> Private											
Gas <input checked="" type="checkbox"/> Sanitary Sewer <input checked="" type="checkbox"/> Alley None <input type="checkbox"/>											
FEMA Special Flood Hazard Area <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No FEMA Flood Zone X FEMA Map # 320003 2195E (*) FEMA Map Date 09/27/2002											
Are the utilities and/or off-site improvements typical for the market area? <input type="checkbox"/> Yes <input type="checkbox"/> No If No, describe. N/A											
Are there any adverse site conditions or external factors (easements, encroachments, environmental conditions, land uses, etc.)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, describe. The subject has a conforming, zero-lot-line type site with typical utility easements. No adverse site conditions or external factors are noted.											
(*) Regular Program / Participating Community											
Source(s) Used for Physical Characteristics of Property <input checked="" type="checkbox"/> Appraisal Files <input checked="" type="checkbox"/> MLS <input type="checkbox"/> Assessment and Tax Records <input type="checkbox"/> Prior Inspection <input type="checkbox"/> Property Owner <input type="checkbox"/> Other (describe) County Assessor records											
Data Source(s) for Gross Living Area County Assessor records											
Improvements											
General Description											
Heating / Cooling											
Appliances											
Condition / Description											
Building / Construction											
Rooms / Bathrooms											
Closings / Sales											
Comments											
NL - Exterior-Only 5/2007											

File No. 16104714034

Exterior-Only Inspection Residential Appraisal Report

There are 17 comparable properties currently offered for sale in the subject neighborhood ranging in price from \$ 54,900 to \$ 235,000.												
There are 104 comparable sales in the subject neighborhood within the past twelve months ranging in sale price from \$ 42,500 to \$ 147,000.												
FEATURE	SUBJECT	COMPARABLE SALE #1	COMPARABLE SALE #2	COMPARABLE SALE #3								
Address	2080 Bowstring Drive Las Vegas, NV 89142	1648 Starridge Way Las Vegas, NV 89142	1361 Crossdale Avenue Las Vegas, NV 89142	1587 S. Christy Lane Las Vegas, NV 89142								
Proximity to Subject	0.45 mile NW					0.65 mile NW	0.44 mile NW					
Sale Price	\$ N/A	\$ 63,900	\$ 62,000	\$ 57,750								
Sale Price/Gross Liv. Area	\$ N/A sq. ft.	\$ 55.18 sq. ft.	\$ 56.88 sq. ft.	\$ 49.87 sq. ft.								
Data Source(s)	SALES COMPARISON	MLS/County Records	MLS/County Records	MLS/County Records								
Verification Source(s)	SALES COMPARISON						MLS/County Records					
VALUE ADJUSTMENTS	DESCRIPTION	DESCRIPTION	+(-)\$ Adjustment	DESCRIPTION	DESCRIPTION	+(-)\$ Adjustment	DESCRIPTION	DESCRIPTION	+(-)\$ Adjustment			
Sale or Financing	ALL CASH	ALL CASH		No Concessions	ALL CASH		ALL CASH	ALL CASH				
Concessions	No Concessions			No Concessions			No Concessions					
Date of Sale/Time	COE 5/13/09	Closed		COE 5/29/08	Closed		COE 7/20/08	Closed				
Location	Winterwood-Sun	Winterwood-Sun		Winterwood-Sun	Winterwood-Sun		Winterwood-Sun	Winterwood-Sun				
Leasehold/Fee Simple	Fee Simple	Fee Simple		Fee Simple	Fee Simple		Fee Simple	Fee Simple				
Site	5,100 sf/Avg.	4,510 sf/Avg.		4,000 sf/Avg.	4,620 sf/Avg.		4,620 sf/Avg.	4,620 sf/Avg.				
View	Residential	Residential		Residential	Residential		Residential	Residential				
Design (Style)	1 sty/Traditional	1 sty/Traditional		1 sty/Traditional	1 sty/Traditional		1 sty/Traditional	1 sty/Traditional				
Quality of Construction	Average	Average		Average	Average		Average	Average				
Actual Age	19 years	26 years		27 years	26 years		26 years	26 years				
Condition	Average-Good	Good	-5,000	Good	Good	-5,000	Average-Good	Average-Good				
Above Grade	Total Bdrms	Baths	Total Bdrms	Baths	Total Bdrms	Baths	Total Bdrms	Baths				
Room Count	5	3	2.00	5	3	2.00	5	3	2.00			
Gross Living Area	1,025 sq. ft.	1,158 sq. ft.	-1,000	1,090 sq. ft.	1,158 sq. ft.	-1,000	1,158 sq. ft.	1,158 sq. ft.	-1,000			
Basement & Finished	N/A	N/A		N/A	N/A		N/A	N/A				
Rooms Below Grade	N/A	N/A		N/A	N/A		N/A	N/A				
Functional Utility	Average	Average		Average	Average		Average	Average				
Heating/Cooling	FWA/Refrigtn.	FWA/Refrigtn.		FWA/Refrigtn.	FWA/Refrigtn.		FWA/Refrigtn.	FWA/Refrigtn.				
Energy Efficient Items	Typical	Typical		Typical	Typical		Typical	Typical				
Garage/Carport	Garage-2	Garage-2		Garage-2	Garage-2		Garage-2	Garage-2				
Porch/Patio/Deck	Porch&Patio	Superior	-1,500	Superior	Superior	-1,000	Superior	Superior	-1,000			
	No Fireplace	No Fireplace		No Fireplace	No Fireplace		No Fireplace	No Fireplace				
Ldscp&Onsites	Superior	-1,500	Superior	-2,000	Inferior		Similar	Similar	+1,000			
Upgrds&Feats	Similar		Similar									
Net Adjustment (Total)	[] + X -	\$ -9,000	[] + X -	\$ -8,000	[] + X -	\$ -1,000						
Adjusted Sale Price of Comparables	Net Adj: -14%		Gross Adj: 14%	\$ 54,900	Net Adj: -13%		Gross Adj: 13%	\$ 54,000	Net Adj: -2%			
I [X] did [] did not research the sale or transfer history of the subject property and comparable sales. If not, explain									\$ 56,750			

SALES COMPARISON ANALYSIS

My research [] did [X] did not reveal any prior sales or transfers of the subject property for the three years prior to the effective date of this appraisal.

Data source(s) MLS, County Records

My research [X] did [] did not reveal any prior sales or transfers of the comparable sales for the year prior to the date of sale of the comparable sale.

Data source(s) MLS, County Records

Report the results of the research and analysis of the prior sale or transfer history of the subject property and comparable sales (report additional prior sales on page 3).

ITEM	SUBJECT	COMPARABLE SALE #1	COMPARABLE SALE #2	COMPARABLE SALE #3
Date of Prior Sale/Transfer	No sales during	2/23/09	4/23/09	9/12/08
Price of Prior Sale/Transfer	the previous 3 years	No Amount Recorded	\$37,785	\$132,277
Data Source(s)	MLS, County Records	MLS, County Records	MLS, County Records	MLS, County Records

Analysis of prior sale or transfer history of the subject property and comparable sales. No prior sales or transfers are noted for the subject property during the previous 3 years. Sale #1's prior sale on 2/23/09 represents an FHLMC trust deed recording involving a bank foreclosure/take-back sale; however, no dollar amount was recorded. Sale #2's prior sale for \$37,785 on 4/23/09 represents a trust deed foreclosure sale and appears to be below market levels at the time of sale. Sale #3's prior sale for \$132,277 on 9/12/08 represents a trust deed foreclosure sale and appears to be measurably above market levels at the time of sale.

Summary of Sales Comparison Approach Sale #1 is a bank foreclosure/liquidation type sale of a similar, substitute type floor plan as compared to the subject which is located from within the subject's subdivision. Sale #2 is a "resale-flip" type sale of a similar, substitute type floor plan as compared to the subject which is also located from within the subject's subdivision. Sale #3 is also a bank foreclosure/liquidation type sale of a similar, substitute type floor plan as compared to the subject which is also located from within the subject's subdivision. All sales cited are deemed to appeal to the same general market segment/user group from within the subject's subdivision. The sales cited are believed to be the most reliable indicators of the subject's market value which are currently available.

Indicated Value by Sales Comparison Approach \$ 55,000

Indicated Value by Sales Comparison Approach \$ 55,000 Cost Approach (if developed) \$ N/A Income Approach (if developed) \$ N/A

The Sales Comparison Analysis was given most weight because it reflects the actions of buyers and sellers in the current market. The Cost Approach was considered but not utilized as the subject is located in an area of primarily owner-occupied, single family residences.

This appraisal is made [X] "as is," [] subject to completion per plans and specifications on the basis of a hypothetical condition that the improvements have been completed, [] subject to the following repairs or alterations on the basis of a hypothetical condition that the repairs or alterations have been completed, or [] subject to the following required inspection based on the extraordinary assumption that the condition or deficiency does not require alteration or repair.

This appraisal is made "As-Is" with no conditions.

Based on a visual inspection of the exterior areas of the subject property from at least the street, defined scope of work, statement of assumptions and limiting conditions, and appraiser's certification, my (our) opinion of the market value, as defined, of the real property that is the subject of this report is \$ 55,000, as of 7/21/09, which is the date of inspection and the effective date of this appraisal.

RECONCILIATION

NL - Exterior-Only 5/2007

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Exterior-Only Inspection Residential Appraisal Report

See below for document/instrument #'s, days on the market and MLS #'s for all comparable sales:

Comp 1: 090513-00831 32 +/- MLS #918344
 Comp 2: 090529-05922 8 +/- MLS #933271
 Comp 3: 090720-01192 254 +/- MLS #874265

ADDITIONAL COMMENTS

Adjustments made in the Sales Comparison Analysis are based on analysis of MLS information, County Assessor records, observations from the street, conversations with professionals (Realtors and licensed real estate appraisers) active in the local real estate market, the appraiser's general and local market experience, and extraction. Assessments for the adjustments include a visual inspection from not only the front of the comparable sales, but also to the sides and rear of the comparable sales to the extent possible by observation from the street, adjacent streets and nearby side streets.

Location, Site and View adjustments (if any) are based the appraiser's general and local market experience, extraction, conversations with professionals (Realtors and licensed real estate appraisers) active in the local real estate market, observations from the street, and analysis of MLS records and County Assessor records. The adjustments are not based solely on square footage but rather on each site's estimated site value, reflecting current and previous analyses of value patterns, land sales and development costs in the neighborhood, after consideration of all known items of dissimilarity including size, view amenities (if applicable), configuration/utility, street orientations, street improvements, and location within the subject's general neighborhood and immediate setting (general development in proximity to the sale cited).

Intended users of this appraisal report include the owner(s), the bankruptcy attorney(s), the bankruptcy judge(s) and the bankruptcy court(s).

The appraiser applied the definition of market value by utilizing sales in which the buyer and seller are typically motivated and are well informed or well advised, allowing a reasonable exposure time in the open market, with payment made in terms of cash in U.S. dollars and without special or creative financing or sales concessions granted by anyone associated with the sale; the definition of market value applied is sourced from the 2008-2009 Edition of USPAP.

COST APPROACH TO VALUE (If applicable)

Support for the opinion of site value (summary of comparable land sales or other methods for estimating site value) N/A

COST APPROACH

ESTIMATED	REPRODUCTION OR	REPLACEMENT COST NEW	OPINION OF SITE VALUE	=\$
Source of cost data		Dwelling	Sq. Ft. @ \$	=\$
Quality rating from cost service	Effective date of cost data		Sq. Ft. @ \$	=\$
Comments on Cost Approach (gross living area calculations, depreciation, etc.)				
N/A		Garage/Carport	Sq. Ft. @ \$	=\$
		Total Estimate of Cost-new		=\$
		Less Physical	Functional	External
		Depreciation		=\$
		Depreciated Cost of Improvements		=\$
		"As-Is" Value of Site Improvements		=\$

INCOME

Estimated Remaining Economic Life (HUD and VA only)	Years	Indicated Value By Cost Approach	=\$
Estimated Monthly Market Rent \$	N/A	X Gross Multiplier	N/A
Summary of Income (including support for market rent and GRM)	N/A		Indicated Value by Income Approach

PUD INFORMATION

PROJECT INFORMATION FOR PUD (If applicable)				
Is the developer/builder in control of the Homeowner's Association (HOA)?	Yes	No	Unit type(s)	Detached Attached
Provide the following information for PUDs ONLY if the developer/builder is in control of the HOA and the subject property is an attached dwelling unit.				
Legal Name of Project				
Total number of phases				
Total number of units rented	Total number of units	Total number of units sold		
Was the project created by the conversion of existing building(s) into a PUD?	Yes	No	If Yes, date of conversion	
Does the project contain any multi-dwelling units?	Yes	No	Data source	
Are the units, common elements, and recreation facilities complete?	Yes	No	If No, describe the status of completion.	
Are the common elements leased to or by the Homeowner's Association?	Yes	No	If Yes, describe the rental terms and options.	
Describe common elements and recreational facilities.				

This appraisal report is subject to the scope of work, intended use, intended user, definition of market value, statement of assumptions and limiting conditions, and certifications.

SCOPE OF WORK: The scope of work for this appraisal is defined by the complexity of this appraisal assignment and the reporting requirements of this appraisal report form, including the following definition of market value, statement of assumptions and limiting conditions, and certifications. The appraiser must, at a minimum: (1) perform a visual inspection of the exterior areas of the subject property from at least the street, (2) inspect the neighborhood, (3) inspect each of the comparable sales from at least the street, (4) research, verify, and analyze data from reliable public and/or private sources, and (5) report his or her analysis, opinions, and conclusions in this appraisal report.

The appraiser must be able to obtain adequate information about the physical characteristics (including, but not limited to, condition, room count, gross living area, etc.) of the subject property from the exterior-only inspection and reliable public and/or private sources to perform this appraisal. The appraiser should use the same type of data sources that he or she uses for comparable sales such as, but not limited to, multiple listing services, tax and assessment records, prior inspections, appraisal files, information provided by the property owner, etc.

DEFINITION MARKET VALUE: As per Fannie Mae the definition of market value is the most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller, each acting prudently, knowledgeably and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby: (1) buyer and seller are typically motivated; (2) both parties are well informed or well advised, and each acting in what he or she considers his or her own best interest; (3) a reasonable time is allowed for exposure in the open market; (4) payment is made in terms of cash in U. S. dollars or in terms of financial arrangements comparable thereto; and (5) the price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions* granted by anyone associated with the sale.

*Adjustments to the comparables must be made for special or creative financing or sales concessions. No adjustments are necessary for those costs which are normally paid by sellers as a result of tradition or law in a market area; these costs are readily identifiable since the seller pays these costs in virtually all sales transactions. Special or creative financing adjustments can be made to the comparable property by comparisons to financing terms offered by a third party institutional lender that is not already involved in the property or transaction. Any adjustment should not be calculated on a mechanical dollar for dollar cost of the financing or concession but the dollar amount of any adjustment should approximate the market's reaction to the financing or concessions based on the appraiser's judgment.

STATEMENT OF ASSUMPTIONS AND LIMITING CONDITIONS: The appraiser's certification in this report is subject to the following assumptions and limiting conditions:

1. The appraiser will not be responsible for matters of a legal nature that affect either the property being appraised or the title to it, except for information that he or she became aware of during the research involved in performing this appraisal. The appraiser assumes that the title is good and marketable and will not render any opinions about the title.
2. The appraiser has examined the available flood maps that are provided by the Federal Emergency Management Agency (or other data sources) and has noted in this appraisal report whether any portion of the subject site is located in an identified Special Flood Hazard Area. Because the appraiser is not a surveyor, he or she makes no guarantees, express or implied, regarding this determination.
3. The appraiser will not give testimony or appear in court because he or she made an appraisal of the property in question, unless specific arrangements to do so have been made beforehand, or as otherwise required by law.
4. The appraiser has noted in this appraisal report any adverse conditions (such as needed repairs, deterioration, the presence of hazardous wastes, toxic substances, etc.) observed during the inspection of the subject property or that he or she became aware of during the research involved in performing this appraisal. Unless otherwise stated in this appraisal report, the appraiser has no knowledge of any hidden or unapparent physical deficiencies or adverse conditions of the property (such as, but not limited to, needed repairs, deterioration, the presence of hazardous wastes, toxic substances, adverse environmental conditions, etc.) that would make the property less valuable, and has assumed that there are no such conditions and makes no guarantees or warranties, express or implied. The appraiser will not be responsible for any such conditions that do exist or for any engineering or testing that might be required to discover whether such conditions exist. Because the appraiser is not an expert in the field of environmental hazards, this appraisal report must not be considered as an environmental assessment of the property.
5. The appraiser has based his or her appraisal report and valuation conclusion for an appraisal that is subject to satisfactory completion, repairs, or alterations on the assumption that the completion, repairs, or alterations of the subject property will be performed in a professional manner.
6. The subject was inspected via an exterior-only inspection from the street, physical observations from the street, information in County Assessor records and information in MLS records (if available) with no physical inspection of either the interior of the subject's structure nor a complete physical inspection of the exterior of the subject's structure and rear portion of the subject's site and rear and side yards.

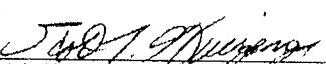
APPRAISER'S CERTIFICATION: The Appraiser certifies and agrees that:

1. I have, at a minimum, developed and reported this appraisal in accordance with the scope of work requirements stated in this appraisal report.
2. I performed a visual inspection of the exterior areas of the subject property from at least the street. I reported the condition of the improvements in factual, specific terms. I identified and reported the physical deficiencies that could affect the livability, soundness, or structural integrity of the property.
3. I performed this appraisal in accordance with the requirements of the Uniform Standards of Professional Appraisal Practice that were adopted and promulgated by the Appraisals Standards Board of The Appraisal Foundation and that were in place at the time this appraisal report was prepared.
4. I developed my opinion of the market value of the real property that is the subject of this report based on the sales comparison approach to value. I have adequate comparable market data to develop a reliable sales comparison approach for this appraisal assignment. I further certify that I considered the cost and income approaches to value but did not develop them, unless otherwise indicated in this report.
5. I researched, verified, analyzed, and reported on any current agreement for sale for the subject property, any offering for sale of the subject property in the twelve months prior to the effective date of this appraisal, and the prior sales of the subject property for a minimum of three years prior to the effective date of this appraisal, unless otherwise indicated in this report.
6. I researched, verified, analyzed, and reported on the prior sales of the comparable sales for a minimum of one year prior to the date of sale of the comparable sale, unless otherwise indicated in this report.
7. I selected and used comparable sales that are locationally, physically, and functionally the most similar to the subject property.
8. I have not used comparable sales that were the result of combining a land sale with the contract purchase price of a home that has been built or will be built on the land.
9. I have reported adjustments to the comparable sales that reflect the market's reaction to the differences between the subject property and the comparable sales.
10. I verified, from a disinterested source, all information in this report that was provided by parties who have a financial interest in the sale or financing of the subject property.
11. I have knowledge and experience in appraising this type of property in this market area.
12. I am aware of, and have access to, the necessary and appropriate public and private data sources, such as multiple listing services, tax assessment records, public land records and other such data sources for the area in which the property is located.
13. I obtained the information, estimates, and opinions furnished by other parties and expressed in this appraisal report from reliable sources that I believe to be true and correct.
14. I have taken into consideration the factors that have an impact on value with respect to the subject neighborhood, subject property, and the proximity of the subject property to adverse influences in the development of my opinion of market value. I have noted in this appraisal report any adverse conditions (such as, but not limited to, needed repairs, deterioration, the presence of hazardous wastes, toxic substances, adverse environmental conditions, etc.) observed during the inspection of the subject property or that I became aware of during the research involved in performing this appraisal. I have considered these adverse conditions in my analysis of the property value, and have reported on the effect of the conditions on the value and marketability of the subject property.
15. I have not knowingly withheld any significant information from this appraisal report and, to the best of my knowledge, all statements and information in this appraisal report are true and correct.
16. I stated in this appraisal report my own personal, unbiased, and professional analysis, opinions, and conclusions, which are subject only to the assumptions and limiting conditions in this appraisal report.
17. I have no present or prospective interest in the property that is the subject of this report, and I have no present or prospective personal interest or bias with respect to the participants in the transaction. I did not base, either partially or completely, my analysis and/or opinion of market value in this appraisal report on the race, color, religion, sex, age, marital status, handicap, familial status, or national origin of either the prospective owners or occupants of the subject property or of the present owners or occupants of the properties in the vicinity of the subject property or on any other basis prohibited by law.
18. My employment and/or compensation for performing this appraisal or any future or anticipated appraisals was not conditioned on any agreement or understanding, written or otherwise, that I would report (or present analysis supporting) a predetermined specific value, a predetermined minimum value, a range or direction in value, a value that favors the cause of any party, or the attainment of a specific result or occurrence of a specific subsequent event (such as approval of a pending mortgage loan application).
19. I personally prepared all conclusions and opinions about the real estate that were set forth in this appraisal report. If I relied on significant real property appraisal assistance from any individual or individuals in the performance of this appraisal or the preparation of this appraisal report, I have named such individual(s) and disclosed the specific tasks performed in this appraisal report. I certify that any individual so named is qualified to perform the tasks. I have not authorized anyone to make a change to any item in this appraisal report; therefore, any change made to this appraisal is unauthorized and I will take no responsibility for it.

20. I identified the client in this appraisal report who is the individual, organization, or agent for the organization that ordered and will receive this appraisal report.
21. I am aware that any disclosure or distribution of this appraisal report by me or the client may be subject to certain laws and regulations. Further, I am also subject to the provisions of the Uniform Standards of Professional Appraisal Practice that pertain to disclosure or distribution by me.
22. If this appraisal report was transmitted as an "electronic record" containing my "electronic signature," as those terms are defined in applicable federal and/or state laws (excluding audio and video recordings), or a facsimile transmission of this appraisal report containing a copy or representation of my signature, the appraisal report shall be as effective, enforceable and valid as if a paper version of this appraisal report were delivered containing my original hand written signature.
23. The Cost Approach to value was considered but not utilized due to an exterior-only physical inspection of the subject property, resulting in insufficient information available to the appraiser to provide an accurate and meaningful approach to value.
24. The Income Approach to value was considered but not utilized as the subject is owner-occupied and located in an area of primarily owner-occupied, single family residences, with typical home buyers within the subject's neighborhood purchasing homes as owner-occupied, single family residences.
25. The subject was inspected via an exterior-only inspection from the street, physical observations from the street, information in County Assessor records and information in MLS records (if available) with no physical inspection of either the interior of the subject's structure nor a complete physical inspection of the exterior of the subject's structure and rear portion of the subject's site and rear and side yards.

SUPERVISORY APPRAISER'S CERTIFICATION: The Supervisory Appraiser certifies and agrees that:

- I directly supervised the appraiser for this appraisal assignment, have read the appraisal report, and agree with the appraiser's analysis, opinions, statements, conclusions, and the appraiser's certification.
- I accept full responsibility for the contents of this appraisal report including, but not limited to, the appraiser's analysis, opinions, statements, conclusions, and the appraiser's certification.
- The appraiser identified in this appraisal report is either a sub-contractor or an employee of the supervisory appraiser (or the appraisal firm), is qualified to perform this appraisal, and is acceptable to perform this appraisal under the applicable state law.
- This appraisal report complies with the Uniform Standards of Professional Appraisal Practice that were adopted and promulgated by the Appraisal Standards Board of The Appraisal Foundation and that were in place at the time this appraisal report was prepared.
- If this appraisal report was transmitted as an "electronic record" containing my "electronic signature," as those terms are defined in applicable federal and/or state laws (excluding audio and video recordings), or a facsimile transmission of this appraisal report containing a copy or representation of my signature, the appraisal report shall be as effective, enforceable and valid as if a paper version of this appraisal report were delivered containing my original hand written signature.

APPRAISER		SUPERVISORY APPRAISER (ONLY IF REQUIRED)
Signature 	Name <u>Scott L. Hulzenberg</u>	Signature _____
Company Name <u>Scott Hulzenberg Appraisals</u>	Company Name _____	
Company Address <u>3268 Shadow Bluff Avenue</u>	Company Address _____	
Las Vegas, NV 89120		
Telephone Number <u>(702) 735-5952</u>	Telephone Number _____	
Email Address <u>scotthulzenberg@coxmail.com</u>	Email Address _____	
Date of Signature and Report <u>7/24/09</u>	Date of Signature _____	
Effective Date of Appraisal <u>7/21/09</u>	State Certification # _____	
State Certification # <u>A.0000783-CR</u>	or State License # _____	
or State License # _____	State _____	
or Other (describe) _____	Expiration Date of Certification or License _____	
State <u>NV</u>		
Expiration Date of Certification or License <u>9/30/10</u>		
ADDRESS OF PROPERTY APPRAISED		
<u>2080 Bowstring Drive</u>		
<u>Las Vegas, NV 89142</u>		
APPRAISED VALUE OF SUBJECT PROPERTY \$ <u>55,000</u>		
CLIENT		
Name <u>Randolph H. Goldberg, Esq., P.C.</u>		
Company Name _____		
Company Address <u>4000 S. Eastern Avenue, Suite 200</u>		
<u>Las Vegas, NV 89119</u>		
Email Address <u>randolphgoldberg@yahoo.com</u>		
SUBJECT PROPERTY		
<input type="checkbox"/> Did not inspect exterior of subject property <input checked="" type="checkbox"/> Did inspect exterior of subject property from street Date of Inspection _____		
COMPARABLE SALES		
<input type="checkbox"/> Did not inspect exterior of comparable sales from street <input checked="" type="checkbox"/> Did inspect exterior of comparable sales from street Date of Inspection _____		

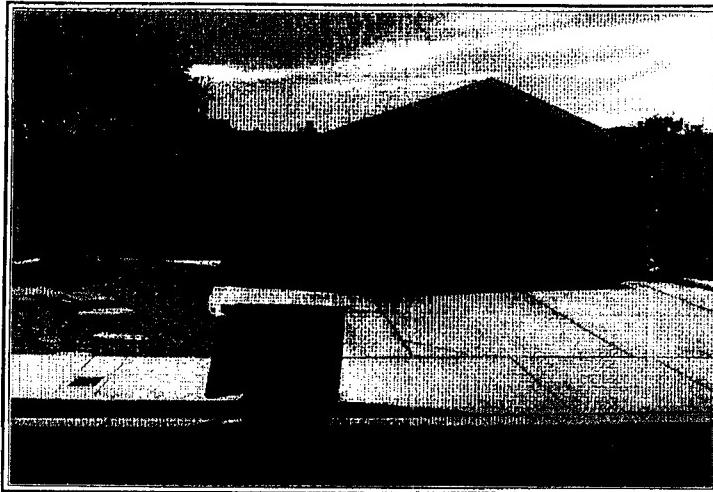
SUBJECT PHOTO ADDENDUM

File No. 16104714034

Borrower KELLEY, JANNENE

Property Address 2080 Bowstring Drive

City	Las Vegas	County	Clark	State	NV	Zip Code	89142
Lender/Clien	Randolph H. Goldberg, Esq. P.C.	Address 4000 S. Eastern Avenue, Suite 200, Las Vegas, NV 89119					



FRONT VIEW OF
SUBJECT PROPERTY



STREET VIEW OF
SUBJECT PROPERTY

ASSESSOR RECORD

File No. 16104714034

Borrower KELLEY, JANNENE

Property Address 2080 Bowstring Drive

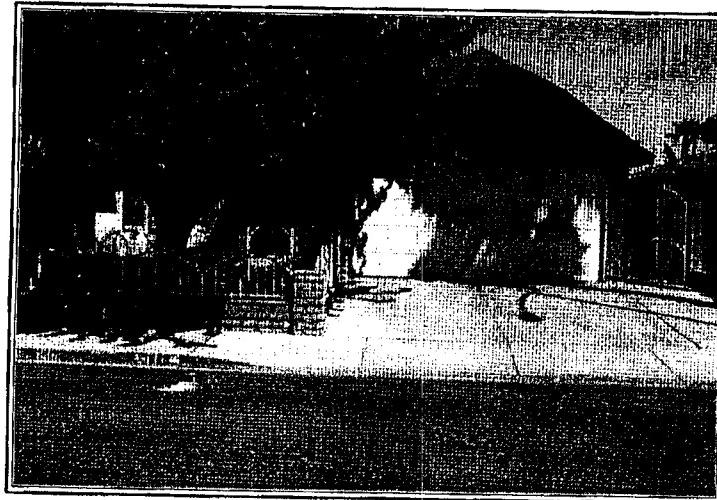
City Las Vegas **County** Clark **State** NV **Zip Code** 89142
Lender/Client Randolph H. Goldberg, Esq. P.C. **Address** 4000 S. Eastern Avenue, Suite 200, Las Vegas, NV 89119

CLARK COUNTY PROPERTY									
Parcel #	161-04-714-034	Address		2080 BOWSTRING DR					
Tax-Roll#	21-62-0-4	Prop/City		LAS VEGAS		Zip Cd		B9142-2674	
Tot Value	\$59,305	Tax Dist		SUNRISE MANOR		ReAssd		2008	
GCO Id	PT NEER SE 21-62-0-4	Land Use		31000000001/SFR		Update		06/24/09	
ASSESSOR DESCRIPTION									
File-Page	P8 0041-0087	Subdivision		5237 / WINTERWOOD-SUNRISE					
Ascr Lot	7	Block	\$3	Phase		Bldg		Unit	
Ascr Apt		Parcel		Area		Tract		Outlot	
Ascr Desc	WINTERWOOD-SUNRISE UNIT #7 PLAT BOOK 41 PAGE 87								
LOT 7 BLOCK 13									
OWNER & DOC INFORMATION					ETAL	DOC DATE	DOC NUMBER	DV	MJL
Owner Name	KELLEY JANNENE				N	03/06/06	2006030604336	0	
2nd Owner						09/02/05	2005090202891	N	0
Address (S)	2080 / BOWSTRING/ DR								
City	LAS VEGAS				State	NV	Zip Code	B9142- 2674	
Prev Owner	KELLEY JANNENE				Phone		Tenant Phone		
LAND & BUILDING INFORMATION									
Land Value	\$18000					Neighborhood		N	
Front/Lot#	51x100								
Acre	0.12	Irregular		Adj Parking	Y	Stc Lights	Y		
Lot Shp	\$100	Under Util	Y	Res Area	N	Curb Gutter	Y		
Topography	LEVEL	Slo Paved	Y	Sidewalks	Y	Traffic	AVRG		
Schools	RESNBL D15	View				Landscape	NONE		
Shading	RESNBL D15			Metro Map	S6- F2	Area	204		
Unit Value	\$24,305	All Yr Blk	1990	Carpets	80 %	Total Rooms	5		
Type Style	1 STORY	Eff Yr Blk	1990	Ceramic Ti		Bedrooms	3		
Architect		Cust Class	FAIR	Vinyl Tile	20 %	Bathrooms	2.00		
Ext Wall	PRM STUCCO	Ithits	I	Hardwood		Family Rms			
Roof Matr	COMP SHNGL	Home Auto	N	Centr Vac	N	Formal Rm	N		
Flooring	CONC	Security	N	Bl Retrig	N	Fireplaces			
Heat System	FORCE AIR	Intercooler	N	Bl Micro	N	Gas/B Prog			
Air Cond	CENT COOL	Range Fan	Y	Tran Cmpct	N	Dishwasher	Y		
Centif Air	100 %	Ridge Vent							
PROPERTY SUB AREAS SQFT									
Living Area	1025	Per Fr	1025	Porch I	15	Garage	482		
Building 1	1447	Second Fr		Porch O		Carport			
Total Bldg	1447	Any Second		Porch 3		Storage			
Pool (N)		Basement F		Porch 1		Deck			
Fence		Basement U		Porch 2	1/419				
EXTRA FEATURE INFORMATION									
Pool/Hdr	N	Tennic Cls		Prch/Patio	6	Sprinklf	NONE		
Jacuzzi(Spa)	N	Trns Lights	N	Prch Cover	5	Sprinklr			
Doct	NONE	Trns Fence	N	Prch Deck	1	Other			
Perce	Oth								
SALES & LOAN INFORMATION									
HIS Sale	PRICE	DATE	TYPE	PCP DWN	DT				
County 1	\$27,000	07/01/90	Z/1ST TM SALE MRKT RNG						
County 2									
County 3									
LOAN AMOUNT LENDER TYPE INT TITLE									
Curr	TOTAL TAX	TOTAL ASSTD	IMPRV	LAND	PERS PROP	YEAR	EXEMPTION		
Prev	\$1409.31	\$59,305	\$24,305	\$35,000		2009			
F Rate	\$1977.00	\$54,632	\$23,132	\$31,500		2008			
Debt	2,9360	Tot Sht Bal			Prv Codes				
		Transfer/R			Decided/R				
INFORMATION DEEMED RELIABLE BUT NOT GUARANTEED							07/08/08	02:02 PM	

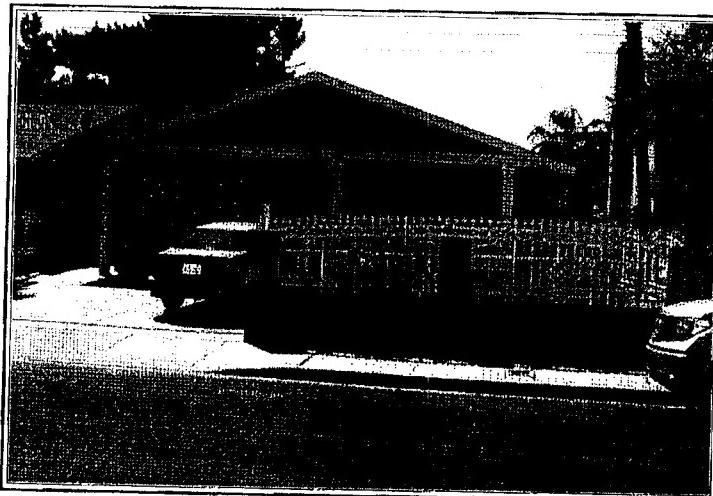
COMPARABLES 1-2-3

File No. 16104714034

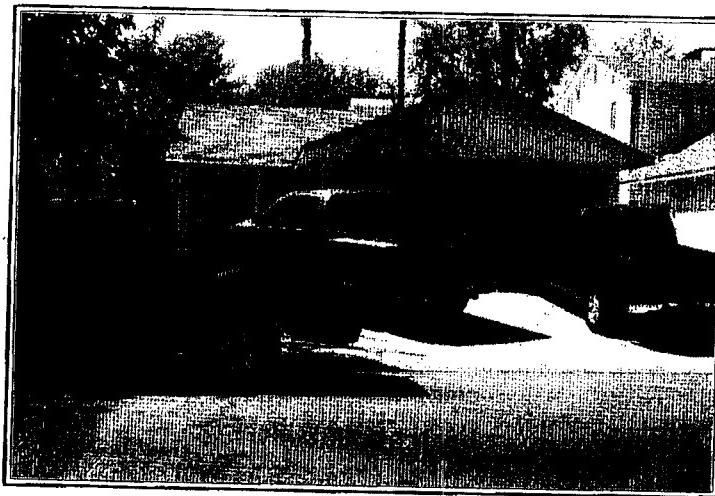
Borrower	KELLEY, JANNENE						
Property Address	2080 Bowstring Drive						
City	Las Vegas	County	Clark	State	NV	Zip Code	89142
Lender/Client	Randolph H. Goldberg, Esq. P.C.						Address 4000 S. Eastern Avenue, Suite 200, Las Vegas, NV 89119



COMPARABLE SALE # 1
1648 Starridge Way
Las Vegas, NV 89142



COMPARABLE SALE # 2
1361 Crossdale Avenue
Las Vegas, NV 89142

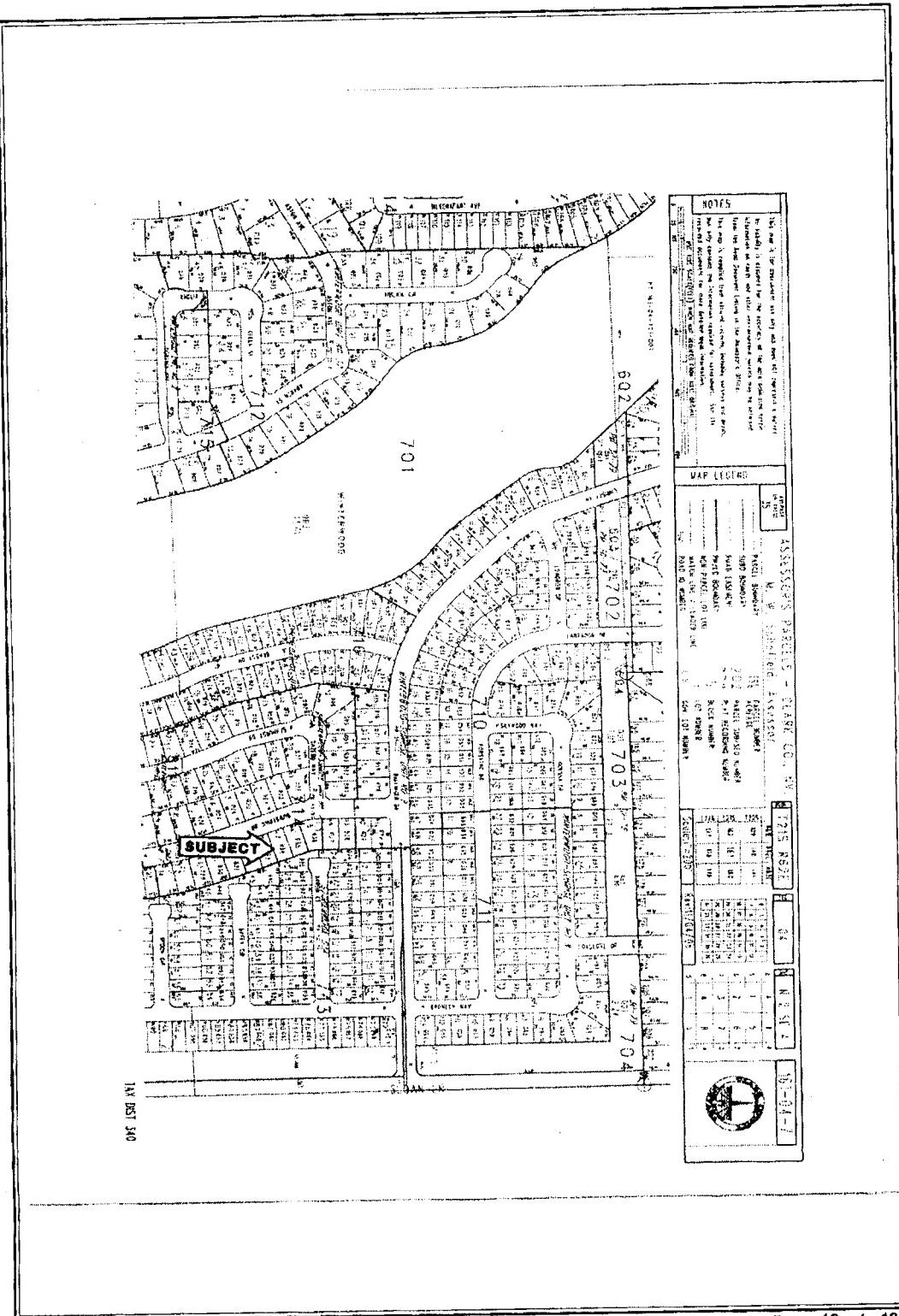


COMPARABLE SALE # 3
1587 S. Christy Lane
Las Vegas, NV 89142

PLAT MAP

File No. 16104714034

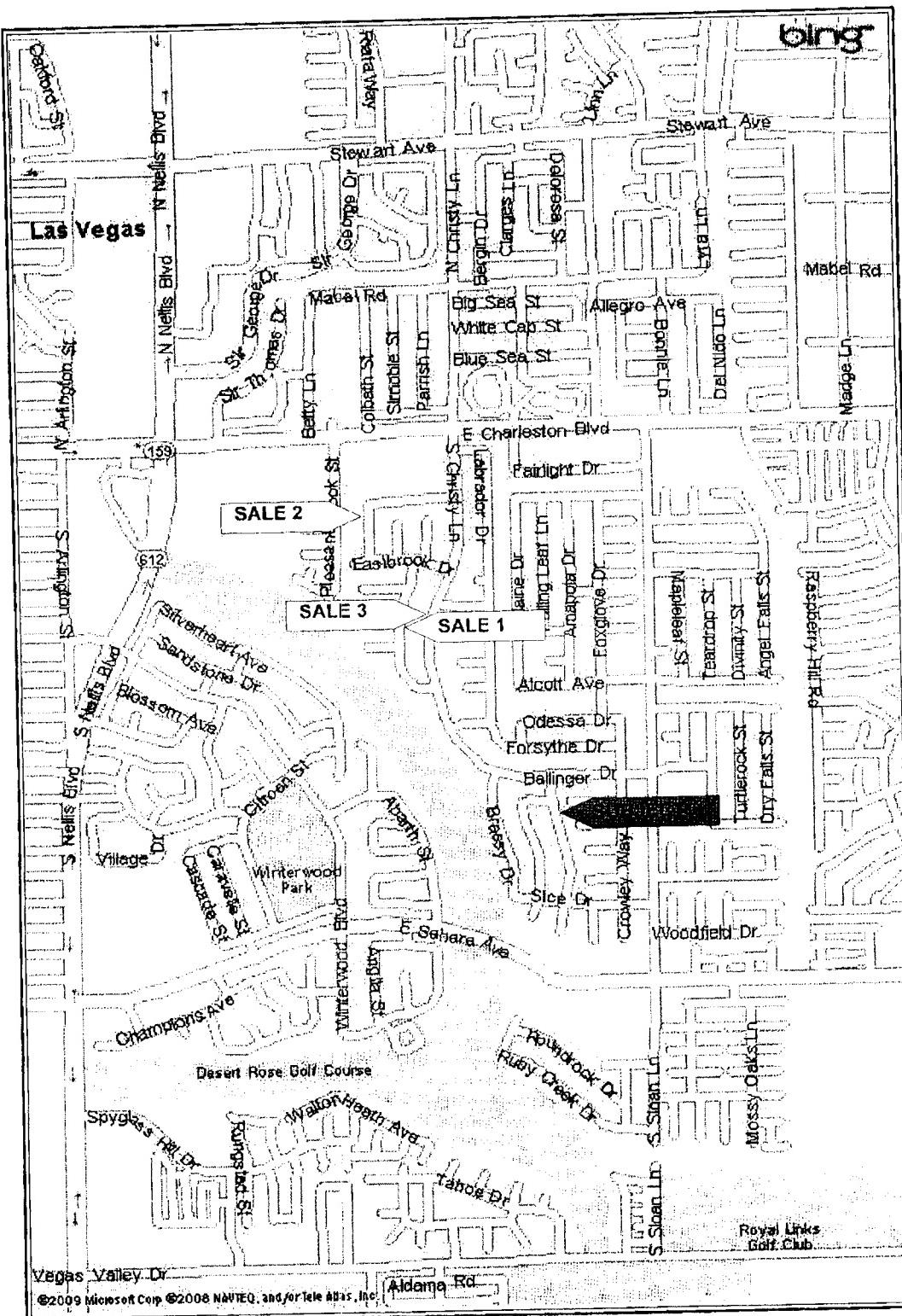
Borrower KELLEY, JANNENE
Property Address 2080 Bowstring Drive
City Las Vegas County Clark State NV Zip Code 89142
Lender/Client Randolph H. Goldberg, Esq., P.C. Address 4000 S. Eastern Avenue, Suite 200, Las Vegas, NV 89119



LOCATION MAP ADDENDUM

File No. 16104714034

Borrower KELLEY, JANNENE
 Property Address 2080 Bowstring Drive
 City Las Vegas County Clark State NV Zip Code 89142
 Lender/Client Randolph H. Goldberg, Esq., P.C. Address 4000 S. Eastern Avenue, Suite 200, Las Vegas, NV 89119



FLOOD MAP ADDENDUM

File No. 16104714034

Borrower KELLEY, JANNENE
 Property Address 2080 Bowstring Drive
 City Las Vegas County Clark State NV Zip Code 89142
 Lender/Client Randolph H. Goldberg, Esq. P.C. Address 4000 S. Eastern Avenue, Suite 200, Las Vegas, NV 89119



Flood Map Legends

Flood Zones

- Areas inundated by 500-year flooding
- Areas outside of the 100 and 500 year flood plains
- Areas inundated by 100-year flooding
- Areas inundated by 100-year flooding with velocity hazard
- Floodway areas
- Floodway areas with velocity hazard
- Areas of undetermined but possible flood hazard
- Areas not mapped on any published FIRM

Flood Zone Determination

SFHA (Flood Zone): Out

Within 250 ft. of multiple flood zone? No

Community: 320003

Community Name: UNINCORPORATED AREA

Zone: X Panel: 320003 2195E Panel Date: 09/27/2002

FIPS Code: 32003 Census Tract: 0049.12

This Flood Report is for the sole benefit of the Customer that ordered and paid for the Report and is based on the property information provided by the customer. That customer's use of this report is subject to the terms agreed by that customer when accessing this product. No third party is authorized to use or rely on this report for any purpose. NEITHER FIRST AMERICAN FLOOD DATA SERVICES NOR THE SELLER OF THIS REPORT MAKES ANY REPRESENTATIONS OR WARRANTIES TO ANY PARTY CONCERNING THE CONTENT ACCURACY OR COMPLETENESS OF THIS REPORT INCLUDING ANY WARRANTY OR MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. Neither FAFDS nor the seller of this Report shall have any liability to any third party for any use or misuse of this Report.

RESUME

File No. 16104714034

Borrower KELLEY, JANNENE

Property Address	2080 Bowstring Drive	County	Clark	State	NV	Zip Code	89142
City	Las Vegas						
Lender/Client	Randolph H. Goldberg, Esq. P.C.	Address 4000 S. Eastern Avenue, Suite 200, Las Vegas, NV 89119					

Scott L. Huizenga
 3268 Shadow Bluff Avenue
 Las Vegas, Nevada 89120

- License: State of Nevada Department of Commerce
 Certified Residential Appraiser, Certificate #A.0000783-CR,
 Issued 10/02/08, Expires 9/30/10. Primary market
 is Clark County, Nevada, encompassing Las Vegas,
 North Las Vegas, Henderson, Boulder City, Red Rock Canyon,
 Blue Diamond, Mountain Springs, Mt. Charleston, Logandale
 Overton/Moapa, Mesquite, Laughlin, Searchlight, Indian Springs
 and Sandy Valley, and Pahrump in Nye County, Nevada.
- Experience: Independent Fee Appraiser and Consultant, from 10/95 to
 the present
 Partner, MESA Appraisal, from 3/93 to 9/95
 Independent fee appraiser with Collins E. Butler & Associates
 from 3/93 to 7/93
 Independent fee appraiser with Decker & Associates from 4/90 to
 6/93
- Education: University of Nevada, Las Vegas
 Bachelor of Science, Business/Administration
 Major in Accounting, 1981
- Real Estate Courses: Appraisal Institute professional education credit:
 -Real Estate Appraising Principles
 -Basic Valuation Procedures
 -Residential Valuation
 -Capitalization Theory & Techniques, Part A
 -Capitalization Theory & Techniques, Part B
 -Valuation Analysis and Report Writing
 -Case Studies in Real Estate Valuation
 -Standards of Professional Practice, Part A
 -Standards of Professional Practice, Part B
- Appraising related, continuing education credit:
 -Fair Lending & The Appraiser-Fair Lending &
 Institutional Affiliated Parties
 -Practical Overview of Evaluations and Other
 Limited Scope Assignments
 -Appraisal Regulations, Standards & Ethics
 -Real Estate Auctions
 -Uniform Standards of Professional Appraisal
 Practice (USPAP), Update and Review
 -The 29th Annual Litigation Seminar
- University of Nevada, Las Vegas courses:
 -Principles of Real Estate
 -Real Estate Law
- Professional Affiliations: Five Star Appraisers